

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No.: 3:15-CR-27-TAV-DCP
)	
SYLVIA HOFSTETTER,)	
CYNTHIA CLEMONS,)	
)	
Defendant.)	

ORDER

This criminal matter is before the Court on the Report and Recommendation (R&R) entered by United States Magistrate Judge Debra C. Poplin on August 9, 2019 [Doc. 548].

Judge Poplin recommends as follows:

- (1) That defendant Cynthia Clemons' Motion to Adopt Specific Motions of Co-Defendant [Doc. 409] be granted in part, and that defendant Clemons be permitted to join in defendant Sylvia Hofstetter's First Motion to Strike Prejudicial Surplusage from the Indictment [Doc. 398];
- (2) That the First Motion to Strike Prejudicial Surplusage from the Indictment [Doc. 398] be granted, in part, in that two of the passages challenged by defendants, the reference to 700 patient deaths (paragraph 35) and the reference to two clinic patients dying in an automobile accident (paragraph 54.51, second sentence), be stricken from the indictment as surplusage, because they are irrelevant and prejudicial;
- (3) That the First Motion to Strike Prejudicial Surplusage [Doc. 398] be denied, in part, in that the third passage, the reference to certain codefendants holding themselves out as belonging to a criminal organization (paragraph 40(e)), remain in the indictment, because it is not surplusage.

[*Id.*]

There have been no timely objections filed to the R&R, and enough time has passed since the filing of the R&R to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

After reviewing the matter, the Court agrees with Judge Poplin's recommendations and reasoning, which the Court adopts and incorporates into its ruling. Accordingly, the Court **ACCEPTS IN WHOLE** the R&R [Doc. 548]. Defendant Cynthia Clemons' Motion to Adopt Specific Motions of Co-Defendant [Doc. 409] is **GRANTED, IN PART**, in that defendant Clemons shall be permitted to join in defendant Sylvia Hofstetter's Motion to Strike Prejudicial Surplusage from the Indictment. The First Motion to Strike Prejudicial Surplusage from the Indictment [Doc. 398] is **GRANTED, IN PART**, in that paragraph 35 and the second sentence of paragraph 54.51 shall be stricken, and **DENIED, IN PART**, in that paragraph 40(e) shall remain.

IT IS SO ORDERED.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE